

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES O'NEIL WIGGIN,

Plaintiff,

v.

WILLIAM ROLLINS, et al.,

Defendants.

CASE NO. C13-5057 BHS-KLS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 118), and Defendants' objections to the R&R (Dkt. 119).

On October 4, 2013, Judge Strombom issued the R&R recommending that the Court grant Plaintiff James O'Neil Wiggin's ("Wiggin") motion to amend and deny Defendants' motion to dismiss as moot. Dkt. 118. Judge Strombom concluded that the allegations in Wiggin's amended complaint stated a cognizable claim for deliberate indifference under the Eighth Amendment. *Id.* On October 18, 2013, Defendants filed objections arguing that Wiggin had failed to state allegations that amount to deliberate indifference. Dkt. 119. The Court disagrees with Defendants and finds that Wiggin's

1 allegations, if taken as true, state a claim for deliberate indifference to his health.

2 Therefore, the Court having considered the R&R, Defendants' objections, and the
3 remaining record, does hereby find and order as follows:

- 4 (1) The R&R is **ADOPTED**;
- 5 (2) Wiggin's motion to amend is **GRANTED**;
- 6 (3) Defendants' motion to dismiss is **DENIED**; and,
- 7 (4) The matter is re-referred for further proceedings.

8 Dated this 20th day of November, 2013.

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BENJAMIN H. SETTLE
United States District Judge